



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2005

Ms. Maureen Singleton
Bracewell & Patterson, L.L.P.
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR2005-00837

Dear Ms. Singleton:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 216978.

The Region IV Education Service Center (the "center"), which you represent, received a request for information related to certification of Houston Independent School District school bus drivers. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also considered comments submitted on behalf of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We turn first to your claim under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

information other statutes make confidential. Section 730.004 of the Transportation Code provides:

Notwithstanding any other provisions of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005 - 730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Transp. Code § 730.004. Section 730.003 provides that, for purposes of chapter 730 of the Transportation Code:

(1) "Agency" includes any agency or political subdivision of this state, *or an authorized agent* or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

...

(6) "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information. The term does not include:

(A) information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status; or

(B) information contained in an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4), (6) (emphasis added). Section 521.022 of the Transportation Code requires school bus drivers to be certified in school bus safety education or be enrolled in a school bus safety education class “under provisions adopted by the [Department of Public Safety (the ‘department’)].” Transp. Code § 521.022(e); *see also* Transp. Code § 521.001(a)(1) (defining “Department”). The regulations adopted by the department charge the Regional Education Service Centers with administering school bus safety certification courses and submitting necessary verification information to the department. 37 Tex. Admin. Code §§ 14.2, 14.34.

Based on your representations and our review of the laws at issue, we find that the center is an “agency” for purposes of chapter 730. *See* Transp. Code § 730.003(1). Furthermore, the submitted information qualifies as “motor vehicle records,” as defined by section 730.003(4). Section 730.007 of the Transportation Code enumerates the requestors who are eligible to receive information from an agency. The requestor here is not one of the persons listed in section 730.007. Therefore, to the extent that the submitted information consists of “personal information” under section 730.003(6), it must be withheld under section 552.101 as information made confidential by law. *See id.* § 730.004; *see also id.* §§ 730.005, .006, .007. We note you have highlighted dates of birth in Exhibits C, D, and E as information you seek to withhold under section 552.101 in conjunction with section 730.004. We note, however, that date of birth is not included in the list of personal information enumerated in section 730.003(6), and you have not otherwise explained how such information identifies a person. Therefore, the center may not withhold dates of birth under section 552.101 of the Government Code on the basis of section 730.004. *See* Open Records Decision No. 478 at 2 (1987) (statutory confidentiality requires express language making information confidential or stating that information shall not be released to public).

You also raise section 552.130 of the Government Code as a possible exception. This section provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov’t Code § 552.130. Because an individual’s date of birth is not information that relates to a motor vehicle operator’s or driver’s license permit or a motor vehicle title or registration, the center may not withhold dates of birth under section 552.130.

In summary, to the extent that the submitted information consists of "personal information" under section 730.003(6) of the Transportation Code, it must be withheld under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. All remaining information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/seg

Ref: ID# 216978

Enc. Submitted documents

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